

AMENDED IN ASSEMBLY APRIL 23, 2008

AMENDED IN ASSEMBLY APRIL 8, 2008

AMENDED IN ASSEMBLY MARCH 24, 2008

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

## **ASSEMBLY BILL**

**No. 2866**

---

---

**Introduced by Assembly Member De Leon**

February 22, 2008

---

---

An act to amend Section 48000 of, and to add Sections 43610.5 and 48001.5 to, the Public Resources Code, relating to solid waste, and making an appropriation therefor.

### LEGISLATIVE COUNSEL'S DIGEST

AB 2866, as amended, De Leon. Solid waste: closure liability: solid waste disposal fees.

(1) Existing law, the California Integrated Waste Management Act of 1989, requires an operator of a solid waste disposal facility to pay a quarterly fee to the State Board of Equalization based on the amount of solid waste disposed of at each disposal site. Commencing with the 1995–96 fiscal year, the act requires the California Integrated Waste Management Board to establish the amount of the fee, as specified, and limits the fee to a maximum of \$1.40 per ton. The fees are required to be deposited in the Integrated Waste Management Account in the Integrated Waste Management Fund, and the board is authorized to expend the money in the account, upon appropriation by the Legislature, to administer and implement the act.

This bill would, on and after July 1, 2009, establish the amount of the fee in an amount of \$2 per ton and would require \$0.60 of that fee after that date to be deposited by the State Board of Equalization in the

Solid Waste Mitigation Account, which this bill would create in the fund.

The bill would continuously appropriate the fee revenues in that account to the board for expenditure in accordance with a specified schedule, of which, from July 1, 2009, until June 30, 2016, 25% of the fee revenues would be required to be expended to fund demonstration projects by operators of diesel and natural gas fleets to accelerate the commercialization of hybrid hydraulic and hybrid electric propulsion systems in medium- and heavy-duty trucks used for the collection of recyclables, yard waste, and garbage, and in trucks used for the delivery and servicing of residential and commercial solid waste, recycling, and yard waste containers. The bill would require, on and after July 1, 2016, that 25% of the fee revenues be expended by the board, upon appropriation by the Legislature in the annual Budget Act.

The bill would also require, from July 1, 2009, until June 30, 2020, that 50% of the fee revenues be expended for projects to divert 50% of compostable organics from land disposal by the year 2020, and for projects that demonstrate the commercial viability of producing clean transportation fuels, including ethanol, from municipal solid waste, and converting landfill gas to clean transportation fuels, as specified. The bill would require, on and after July 1, 2020, that 50% of the fee revenues be expended by the board, upon appropriation by the Legislature in the annual Budget Act.

The bill would require the board, on and after July 1, 2009, to deposit 25% of the fee revenues in the State Solid Waste Closure Trust Subaccount, which the bill would establish in the Solid Waste Mitigation Account and continuously appropriate to the board. The bill would authorize the board to expend the money in the subaccount to pay for any future liability of the state resulting from the failure of a landfill operator to meet its responsibilities for landfill closure and postclosure care. The board would be required to maintain an amount of \$50,000,000 in the subaccount, and if the amount of the fee revenues allocated to the subaccount exceeds that amount, the board would be required to expend those excess amounts proportionally for the other purposes, as appropriated by the Legislature in the annual Budget Act.

(2) The act requires a person owning or operating a solid waste landfill to submit to the board, the appropriate California regional water quality control board, and the local enforcement agency, a closure plan and a postclosure maintenance plan for the solid waste landfill. The act requires that person to also submit to the board evidence of financial

ability in an amount, as specified, to provide for the closure and postclosure maintenance required by the closure and postclosure maintenance plans for the landfill. The act requires the owner and operator of a solid waste landfill to close, and to maintain the landfill during postclosure, in accordance with the most recent closure plan and the most recent postclosure maintenance plan approved by the board.

This bill would provide that an owner or operator of a disposal site who does not close and maintain the disposal site in accordance with the most recent closure plan or postclosure plan approved by the board is liable for any costs incurred by the board as a result of that failure. The board would be authorized to recover from that owner or operator any costs incurred by the board for the closure and postclosure maintenance of that site. The bill would require that any money recovered by the board be deposited in the Integrated Waste Management Account.

Vote: majority. Appropriation: yes. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 43610.5 is added to the Public Resources
- 2 Code, to read:
- 3 43610.5. (a) An owner or operator of a disposal site who does
- 4 not close or maintain the disposal site in accordance with the most
- 5 recent closure plan or postclosure plan approved by the board is
- 6 liable for any costs incurred by the board as a result of that failure.
- 7 The board may recover from the owner or operator of the disposal
- 8 site any costs incurred by the board for the closure and postclosure
- 9 maintenance of that site. The amount of any costs that may be
- 10 recovered pursuant to this section shall include, where applicable,
- 11 interest on any amount paid.
- 12 (b) The amount of costs determined pursuant to this section
- 13 shall be recoverable, at the discretion of the board, either in a
- 14 separate action or by way of intervention as of right in an action
- 15 for contribution or indemnity.
- 16 (c) Money recovered by the board pursuant to this section shall
- 17 be deposited in the Integrated Waste Management Account.
- 18 SEC. 2. Section 48000 of the Public Resources Code is
- 19 amended to read:

1 48000. (a) An operator of a disposal facility shall pay a fee  
2 quarterly to the State Board of Equalization which is based on the  
3 amount, by weight or volumetric equivalent, as determined by the  
4 board, of all solid waste disposed of at each disposal site.

5 (b) Until July 1, 2009, the amount of the fee shall be established  
6 by the board at an amount that is sufficient to generate revenues  
7 equivalent to the approved budget for that fiscal year, including a  
8 prudent reserve, but the fee shall not exceed one dollar and forty  
9 cents (\$1.40) per ton.

10 (c) On and after July 1, 2009, the amount of the fee shall equal  
11 two dollars (\$2) per ton.

12 (d) The board and the State Board of Equalization shall ensure  
13 that all the fees for solid waste imposed pursuant to this section  
14 that are collected at a transfer station are paid to the State Board  
15 of Equalization in accordance with this article.

16 (e) Notwithstanding Section 48001, on and after July 1, 2009,  
17 an amount of sixty cents (\$0.60) of the fee imposed for each ton  
18 of solid waste disposed of at each disposal site shall be deposited  
19 by the State Board of Equalization in the Solid Waste Mitigation  
20 Account created by Section 48001.5.

21 SEC. 3. Section 48001.5 is added to the Public Resources Code,  
22 to read:

23 48001.5. The fee revenues collected by the State Board of  
24 Equalization pursuant to subdivision (e) of Section 48000 shall be  
25 deposited in the Solid Waste Mitigation Account, which is hereby  
26 established in the fund. Notwithstanding Section 13340 of the  
27 Government Code, the revenues deposited in the Solid Waste  
28 Mitigation Account are hereby continuously appropriated to the  
29 board for expenditure in accordance with the following:

30 (a) (1) On and after July 1, 2009, until June 30, 2016, 25 percent  
31 of the fee revenues shall be expended to fund demonstration  
32 projects by operators of diesel and natural gas fleets to accelerate  
33 the commercialization of hybrid hydraulic and hybrid electric  
34 propulsion systems in medium- and heavy-duty trucks used for  
35 the collection of recyclables, yard waste, and garbage, and in trucks  
36 used for the delivery and servicing of residential and commercial  
37 solid waste, recycling, and yard waste containers.

38 (2) On and after July 1, 2016, 25 percent of the fee revenues  
39 shall be expended by the board, upon appropriation by the  
40 Legislature in the annual Budget Act.

1 (b) (1) On and after July 1, 2009, until June 30, 2020, 50 percent  
2 of the fee revenues shall be expended by the board for both of the  
3 following:

4 (A) Projects to achieve the goal of diverting 50 percent of  
5 compostable organics from land disposal by the year 2020.

6 (B) Projects that demonstrate the commercial viability of  
7 producing clean transportation fuels, including ethanol, from  
8 municipal solid waste, and converting landfill gas to clean  
9 transportation fuels, including compressed natural gas, liquefied  
10 natural gas, or methane-based fuels, for use in existing diesel  
11 engines as a means of reducing both criteria air pollutants and  
12 greenhouse gas emissions from on-road or off-road vehicles. *A*  
13 *project that utilizes thermal technologies is not eligible for*  
14 *expenditure pursuant to this subparagraph.*

15 (2) On and after July 1, 2020, 50 percent of the fee revenues  
16 shall be expended by the board, upon appropriation by the  
17 Legislature in the annual Budget Act.

18 (c) On and after July 1, 2009, except as provided in paragraph  
19 (3), 25 percent of the fee revenues shall be deposited in the State  
20 Solid Waste Closure Trust Subaccount, which is hereby established  
21 in the State Solid Waste Mitigation Account and continuously  
22 appropriated for expenditure by the board.

23 (2) The board may expend the money in the State Solid Waste  
24 Closure Trust Subaccount to pay for any future liability of the state  
25 resulting from the failure of a landfill operator to meet its  
26 responsibilities for landfill closure and postclosure care.

27 (3) The board shall continue to deposit the percentage amount  
28 of the fees specified in paragraph (1) to maintain an amount of  
29 fifty million dollars (\$50,000,000) in the State Solid Waste Closure  
30 Trust Subaccount. If the amount of the fee revenues allocated to  
31 the State Solid Waste Closure Trust Subaccount exceeds that  
32 amount, the board shall expend those excess amounts upon  
33 appropriation by the Legislature in the annual Budget Act.